

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1045

United States of America,

Appellee,

v.

Jimmie Lee Gray,

Appellant.

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Appeal from the United States
District Court for the
Western District of Arkansas.

[UNPUBLISHED]

Submitted: January 26, 2006

Filed: February 1, 2006

Before ARNOLD, BYE, and SMITH, Circuit Judges.

PER CURIAM.

Jimmie Lee Gray appeals the sentence the district court¹ imposed after he pleaded guilty to a drug charge. Mr. Gray argues under United States v. Booker, 125 S. Ct. 738 (2005), that the district court's finding on the contested drug quantity increased his sentence in violation of the Sixth Amendment.

Because the district court in sentencing Mr. Gray did not view the Guidelines as mandatory, there was no Booker error. See Booker, 125 S. Ct. at 750-52, 756-57,

¹The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

764 (Sixth Amendment problem resulting from mandatory nature of Guidelines remedied by making Guidelines advisory). To the extent Mr. Gray's argument can be construed as a challenge to the reasonableness of his sentence, see id. at 765-66 (appellate court reviews sentence for unreasonableness), we reject this challenge. The record does not indicate that the district court failed to consider a relevant sentencing factor, or considered an improper or irrelevant factor, or made a clear error of judgment in weighing the factors listed in 18 U.S.C. § 3553(a). See United States v. Long Soldier, 431 F.3d 1120, ___ (8th Cir. 2005); United States v. Haack, 403 F.3d 997, 1002-04 (8th Cir.), cert. denied, 126 S. Ct. 276 (2005). Given all the information before the district court, including the arguments of Mr. Gray's counsel at sentencing, we conclude that the court considered appropriate sentencing factors and that the sentence was not unreasonable. Accordingly, we affirm.
